

1 AN ACT concerning firearms.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by
5 adding Section 24-10 as follows:

6 (720 ILCS 5/24-10 new)

7 Sec. 24-10. Temporary confiscation of firearm at scene
8 of domestic dispute.

9 (a) A law enforcement officer who is at the scene of an
10 incident of domestic violence as defined in Section 103 of
11 the Illinois Domestic Violence Act of 1986 that involves a
12 threat to human life or a physical assault shall take
13 temporary custody of any firearm or other deadly weapon in
14 plain sight or discovered pursuant to a consensual search as
15 necessary for the protection of the peace officer or other
16 persons present.

17 (b) Upon taking custody of a firearm, the officer shall
18 give the owner or person who possessed the firearm a receipt.
19 The receipt shall describe the firearm or other deadly weapon
20 and list any identification or serial number on the firearm.
21 The receipt shall indicate where the firearm can be recovered
22 and the date after which the owner or possessor can recover
23 the firearm.

24 (c) No firearm shall be held less than 48 hours. Except
25 as provided in subsections (g) and (h), if a firearm is not
26 retained for use as evidence related to criminal charges
27 brought as a result of the domestic violence incident or is
28 not retained because it was illegally possessed, the firearm
29 shall be made available to the owner 48 hours after the
30 seizure or as soon thereafter as possible, but no later than
31 72 hours after the seizure.

1 (d) In those cases where a law enforcement agency has
2 reasonable cause to believe that the return of a firearm
3 would be likely to result in endangering the domestic
4 violence victim, the agency shall advise the owner of the
5 firearm, and within 30 days of the seizure, initiate a
6 petition in the circuit court to determine if the firearm
7 should be returned. The law enforcement agency may make an ex
8 parte application stating good cause for an order extending
9 the time to file a petition. Including any extension of time
10 granted in response to an ex parte request, a petition must
11 be filed within 60 days of the date of seizure of the
12 firearm.

13 (e) The law enforcement agency shall inform the owner of
14 the firearm, at that person's last known address by
15 registered mail, return receipt requested, that he or she has
16 30 days from the date of receipt of the notice to respond to
17 the circuit clerk to confirm his or her desire for a hearing,
18 and that the failure to respond shall result in a default
19 order forfeiting the confiscated firearm. For the purposes of
20 this subsection, the person's last known address shall be
21 presumed to be the address provided to the law enforcement
22 officer by that person at the time of the domestic violence
23 incident. In the event the person whose firearm was seized
24 does not reside at the last address provided to the agency,
25 the agency shall make a diligent, good faith effort to learn
26 the whereabouts of the person and to comply with these
27 notification requirements.

28 (f) If the person requests a hearing, the circuit clerk
29 shall set a hearing no later than 30 days from receipt of
30 that request. The circuit clerk shall notify the person, the
31 law enforcement agency involved, and the State's Attorney of
32 the date, time, and place of the hearing. Unless it is shown
33 by clear and convincing evidence that the return of the
34 firearm would result in endangering the victim, the court

1 shall order the return of the firearm.

2 (g) If the person does not request a hearing or does not
3 otherwise respond within 30 days of the receipt of the
4 notice, the law enforcement agency may file a petition for an
5 order of default and may dispose of the firearm as provided
6 in subsection (b) of Section 24-6 of this Code.

7 (h) If, at the hearing, the court does not order the
8 return of the firearm to the owner, that person may petition
9 the court for a second hearing within 12 months from the date
10 of the initial hearing. If the owner does not petition the
11 court within this 12-month period for a second hearing or is
12 unsuccessful at the second hearing in gaining return of the
13 firearm, the firearm may be disposed of as provided in
14 subsection (b) of Section 24-6 of this Code.

15 (i) Any firearm which has been taken into custody that
16 has been stolen shall be restored to the lawful owner, as
17 soon as its use for evidence has been served, upon his or her
18 identification of the firearm or other deadly weapon and
19 proof of ownership.

20 (j) A law enforcement agency or an individual law
21 enforcement officer who, in good faith, exercises
22 responsibilities under this Section, is not criminally or
23 civilly liable for any act or omission that results in injury
24 to a person or damage to property as a result of the exercise
25 of those responsibilities unless the act or omission
26 constitutes wilful and wanton misconduct.